

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 11, 2008

Charles R. Fulbruge III
Clerk

No. 07-11204
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

SHERI ELIZABETH BELL

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:07-CR-13-ALL

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

Sheri Elizabeth Bell pleaded guilty pursuant to an agreement to one count of health care fraud and was sentenced to serve 51 months in prison. Bell appeals her sentence. She argues that the district court's loss calculation is incorrect and that both the loss amount and her base offense level should be reduced.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Under the discretionary sentencing system established by *United States v. Booker*, 543 U.S. 220 (2005), district courts retain the duty to properly calculate and consider the applicable sentencing range under the Sentencing Guidelines, along with the sentencing factors set forth in 18 U.S.C. § 3553(a), when fashioning a sentence. *United States v. Mares*, 402 F.3d 511, 518-19 (5th Cir. 2005). When reviewing a sentence, we consider whether the district court committed significant procedural error and whether the sentence imposed is substantively reasonable. See *Gall v. United States*, 128 S. Ct. 586, 594, 597 (2007). The district court's sentencing decision is ultimately reviewed for an abuse of discretion. *Id.*; see also *United States v. Gomez-Herrera*, 523 F.3d 554, 564 (5th Cir.), petition for cert. filed, (July 2, 2008) (No. 08-5226).

Bell has shown no significant procedural error in connection with her sentence. See *Gall*, 128 S. Ct. at 597. The district court's findings concerning the amount of loss are plausible when considered in view of the record as a whole and thus are not clearly erroneous. See *United States v. Jones*, 475 F.3d 701, 705 (5th Cir. 2007); *United States v. Caldwell*, 448 F.3d 287, 290 (5th Cir. 2006). The district court did not abuse its discretion when sentencing Bell. See *Gomez-Herrera*, 523 F.3d at 564. Accordingly, the judgment of the district court is **AFFIRMED**.